REMARKS

Rejection of Claims 1-5, 7-10, 16, and 17 under 35 U.S.C. § 103a as being unpatentable over US Publication 2002/0141362 (hereafter, "Hsu")

Applicant respectfully traverses the rejection of claim 1 for at least two reasons.

1. Applicant's claim has the following description: "transmitting a set of data on the downlink channel to the mobile station using a current combination of coding schemes that have a current data rate, wherein the current combination of coding schemes…"

Since the combination is of "coding schemes", at least two coding schemes have to be combined to have a current data rate. Hsu does not teach the combining of two or more coding schemes to transmit a set of data at a current data rate. Hsu chooses one coding scheme for each transmission of a set of data.

2. The Office Action states: "Lastly, even though Hsu does not expressly disclose wherein the current combination of coding schemes includes more than one coding scheme, each having a duty cycle; however, it is important to note that the duty cycle as claimed is implicitly taught by Hsu. The 'Duty cycle' is defined as the time the system, component, or in this case the coding scheme is active or operated. Therefore, when a particular coding scheme is selected for a period of time for processing data under certain condition, the time that takes this particular coding scheme to operate is known as the duty cycle."

The Office action cites no authority for the definition of duty cycle that is presented, and the definition does not seem to make sense, since the definition would result in a quantity of time (e.g., seconds). Applicant asserts that a rejection on this basis is defective and must be corrected if the definition is to be used for rejection of any claims in this application.

Furthermore, the assertion that duty cycle is implicitly taught in Hsu is unsupported by Hsu. Hsu never describes transmitting any set of data with but one modulation and coding scheme used for the transmission of the set of data. Asserting that this implicitly teaches duty cycle is an attempt to suggest an implication that doesn't exist.

Rejection of Claims 19-21 and 25 under 35 U.S.C. § 103a as being unpatentable over US Publication 2004/0196900 (hereafter, "Lim")

Applicant's amended claim 19 states: "establishing an optimal combination of coding schemes that is less than a data transfer rate of the peripheral device, wherein the optimal combination of coding schemes includes more than one coding scheme, each having a duty cycle."

The Office action does not quote the new aspect added to claim 19 ("wherein the optimal combination of coding schemes includes more than one coding scheme, each having a duty cycle"). Lim does not discuss nor imply using a combination of coding schemes, each having a duty cycle. In fact, Lim teaches repetitively varying the coding scheme. If one were to try to determine a duty cycle in Lim's technique, there is no reason to believe any coding scheme would be at "a duty cycle" and good reason to believe that any coding scheme would have a plurality of duty cycles. For these reasons, the rejection of claim 19 over Lim is overcome.

The rejection of claims 21 and 25 are overcome for the same reason.

Claims 2-5, 7-11 16-18, 22, and 23 are each ultimately dependent upon one of independent claims 1 and 21. Applicant believes each of these to be allowable inasmuch as they depend upon claims that applicant believes to be allowable.

Applicants respectfully request that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicants. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

Western et al.

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